

# MOTOR FUELS UPDATE

DEPARTMENT OF REVENUE



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## Coming January 1, 2005

### LB 983

January 1, 2005 the changes required by LB 983 become effective. Although the changes are not major and are meant to simplify and provide consistency in reporting, they have some effect on all current licensees and persons claiming fuel tax refunds for nonhighway use. To understand the history and changes that are occurring, please review the April 2004 *Motor Fuels Update*. This can be found on our Web site [www.revenue.state.ne.us/fuels](http://www.revenue.state.ne.us/fuels). The changes will have the following affect on the different types of fuel licensees. Changes for claimants of gasoline and diesel fuel tax refunds are on page 2.

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#### ✕ **ETHANOL OR BIODIESEL FUEL TAX PRODUCERS:**

All businesses producing ethanol or biodiesel will be required to be licensed as a producer. Currently ethanol producers are licensed as suppliers. Motor Fuels Division will automatically change each supplier license to a producer license. The producer license does not allow the purchase of diesel or gasoline/gasohol tax free. Producers may purchase only natural gasoline and ethanol tax free. Producers will be required to file a Nebraska Ethanol or Biodiesel Producer Return, Form 83. The first electronic return will be for the month of

January 2005. The return will reflect information on inventory, production, receipts and disbursements.

#### ✕ **SUPPLIERS, DISTRIBUTORS, WHOLESALERS, IMPORTERS, AND EXPORTERS:**

##### ✓ **Reporting Nebraska Petroleum Release Remedial Action Fee (PRF)**

Nebraska PRF will be remitted at the same time the Nebraska fuel tax is remitted. Proper completion of the Schedule of Receipts and Schedule of Disbursements will provide sufficient information for the calculation of the PRF on the new combined Form 73. To report the PRF on dyed diesel or dyed biodiesel,

filers will be required to report all applicable receipts and disbursements of dyed diesel.

These changes will eliminate the confusion of the fee being imposed differently than the motor fuels tax.

In addition, miscellaneous products, such as bulk oil, will no longer be subject to PRF.

**Filers receiving tax-free product will not remit PRF to their supplier.**

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### I N S I D E

- **Form RC73**
- **Refund Claims**
- **Audits**
- **Dyed Fuel Assessments**
- **Ethanol Production Credit**
- **Annual Stats**

# LB 983 (CONT.)

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## ✓ **Reporting Nebraska Fuel Tax On Ethanol**

The Nebraska fuel tax on ethanol will be remitted similar to the fuel tax on gasoline. Tax is calculated on tax-free receipts less tax-free disbursements. The Schedule E will be eliminated.

Natural gasoline used as a denaturant and ethanol are the only two products that may be sold tax-free to producers.

Businesses having ethanol storage, **other than at a pipeline fuel terminal storage facility**, must file a Nebraska Floorstock Tax Return, Form 96. This return will establish the amount of Nebraska fuel tax due on the tax-free physical inventory of ethanol as of December 31, 2004. The Form 96 and payment for floorstock tax is due on or before June 30, 2005. All Form 73 filers indicating an inventory of ethanol will be mailed a Form 96.

## ✓ **Reporting Nebraska Fuel Tax On Biodiesel (B100)**

The Nebraska motor fuel tax on biodiesel will be remitted in the same manner as the tax on undyed diesel. Tax is calculated on tax-free receipts less tax-free disbursements. All receipts and disbursements of biodiesel must be reported.

## ✗ **REPORTING CHANGES**

### ✓ **Nebraska Combined Monthly Fuel Tax Return, Form 73**

The Form 73 will be a combined filing that will accumulate the reported data for motor fuels Form 73, PRF Form 82, aircraft fuels Form 85, and compressed fuel Form 86.

Remitting the total fuel taxes and fees will be accomplished by one EFT transaction or check. Checks will be accepted if the filer is not EFT mandated or has not established EFT transfers.

**The following Product Codes have been added:**

- 061** Natural Gasoline
- 228** Dyed Diesel
- 284** Undyed Biodiesel
- 290** Dyed Biodiesel

**170** Undyed Biodiesel Blend

**171** Dyed Biodiesel Blend

**The following Schedule Codes have been added:**

- **Schedule Code 13C** - Credit for Tax-Paid Fuel Sold to the United States Government
- **Schedule Code 13J** - Credit for Tax-Paid Fuel Sold Pursuant to Form 91EX

These schedule codes will be for Form 73 filers claiming credit for motor fuels sold tax-paid to retailers who subsequently sold the product tax-free and are asking their supplier for credit on the tax that was not collected.

### ✓ **Retailers**

Since many of the distinctions between gasoline and diesel fuels will be eliminated, we will also change the manner by which retailers request reimbursement of the motor fuels tax when they make exempt sales of tax-paid gasoline or diesel. A new form, Nebraska Retailer's Claim for Exempt Sales of Motor Fuels, Form RC73 (sample on page 3), has been developed for this purpose. Retailers will complete and submit this form to their suppliers who will flow the appropriate credit back to them. Suppliers will recover their credit by reporting these sales as either a schedule code 13C (exempt sales to the U.S. Government) or 13J (exempt sales per Form 91EX) on their appropriate return.

### ✓ **Purchases of Gasoline or Diesel for Nonhighway Purposes**

Beginning January 1, 2005, purchasers of tax-paid gasoline or diesel that is used in non-licensed vehicles or equipment will be eligible to claim a refund of the Nebraska fuel tax by filing a Nebraska Motor Fuels Tax Refund Claim, Form 84.

Claimants will no longer be required to maintain a dedicated storage of "nonhighway gasoline." Both licensed and non-licensed vehicles and equipment may be fueled from the same storage. Withdrawal logs must be maintained if a refund for tax-paid nonhighway usage of

(continued on page 4)

# LB 983 (CONT.)

This form may be copied. It is also available as a "fill-in" form which you may complete and print from our Web site.



## Nebraska Retailer's Claim for Exempt Sales of Motor Fuels

• Read instructions below

FORM  
RC73

|   |       |          |   |       |          |
|---|-------|----------|---|-------|----------|
| Month and Year Covered by This Claim        |       |          | Federal Employer Identification or Social Security Number |       |          |
| <b>NAME AND MAILING ADDRESS OF RETAILER</b> |       |          | <b>NAME AND MAILING ADDRESS OF SUPPLIER</b>               |       |          |
| Name  |       |          | Name  |       |          |
| Street or Other Mailing Address             |       |          | Street or Other Mailing Address                           |       |          |
| City  | State | Zip Code | City  | State | Zip Code |

• **ROUND TO WHOLE GALLONS AND DOLLARS — Round down all amounts less than .50 and round up all amounts .50 through .99**

|  | Column A<br>Gasoline/Gasohol | Column B<br>Diesel/Biodiesel |
|--|------------------------------|------------------------------|
| 1 Gallons sold to the U.S. government .....  | 1                            |                              |
| 2 Gallons sold pursuant to Form 91EX .....   | 2                            |                              |
| 3 <b>Total gallons</b> (total of line 1 in Columns A and B and line 2 in Column B) ..... | 3                            |                              |
| 4 Tax rate in effect at the time the exempt sales were made .....                        | 4                            |                              |
| 5 Credit claimed (multiply line 3 by line 4) .....                                       | 5                            | \$                           |

Under penalties of law, I declare that I have examined this claim, and to the best of my knowledge and belief, it is correct and complete. I also declare that payment of this claim has not been previously made.

sign  
here

Authorized Signature

Date Issued

( )  
Telephone Number

### INSTRUCTIONS

**WHO MAY FILE.** Retailers required to purchase tax-paid gas or undyed diesel who are not licensed as fuel suppliers, distributors, wholesalers, or importers must complete this form if they:

- Sell tax-paid gas or undyed diesel fuel to the federal government tax free, and/or undyed diesel fuel tax free pursuant to a Nebraska Tax Exempt Certificate for Purchase of Undyed Diesel, Form 91EX; and,
- Request reimbursement or credit from the supplier for the Nebraska fuel tax paid on such tax-free sales.

**WHEN AND WHERE TO FILE.** The original copy of this claim report, Form RC73, must be submitted to your supplier at least once a month. Contact your supplier to make arrangements for reimbursement of credit for the tax paid.

**AMOUNT OF REIMBURSEMENT OR CREDIT.** Your supplier will reimburse or credit you for the amount of Nebraska tax shown on line 5. To determine the amount of the tax reimbursement or credit, use the tax rate in effect at the time the exempt sales were made. Fuel tax rates are available on our Web site at [www.revenue.state.ne.us/fuels](http://www.revenue.state.ne.us/fuels).

Licensed fuel suppliers, distributors, wholesalers, and importers can take a credit on their Nebraska fuel tax return for those gallons reported to them on Forms RC73.

**RECORDS.** All claims for reimbursement or credit must be supported by documentation.

✓ **Retailers** documentation must include:

- proof of sales to the federal government;
- a properly completed Form 91EX (exclusively for temperature control "reefer" units or power take-off units), or a substitute exemption certificate/invoice to support exempt sales of diesel fuel; and
- a copy of the Form RC73 submitted to your supplier.

✓ **Suppliers, Distributors, Wholesalers, or Importers** documentation must include:

- the original Form RC73 received from the retailer.

**TAXPAYER'S ASSISTANCE.** For additional information, please contact your account representative at the Motor Fuels Division, P.O. Box 98904, Lincoln, Nebraska 68509-8904, or telephone toll free 1-800-554-3835. Lincoln area residents call 471-5730.

3-472-2004

## LB 983 (CONT.)

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gasoline or diesel is being claimed. The logs should indicate date, gallons, product and equipment that was fueled. The minimum amount that can be claimed on each refund is \$25 per year with a maximum number of claims of one per calendar month.

The tax refunded to nonhighway fuel users will be reduced by one cent for each gallon of diesel and three and one-half cents for each

gallon of gasoline/gasohol purchased after January 1, 2005.

Prior claimants will receive a direct notice regarding changes.

For any tax year ending prior to January 1, 2005, the nonhighway gasoline tax credit must be claimed by completing the Nebraska Nonhighway Use Motor Vehicle Fuels Credit Computation, Form 4136N.

## PROGRESS REPORT

### Refund Claims

This table shows refund claims processed during the period of **July 1, 2003 through June 30, 2004**. During this period, we processed **1,745 claims** resulting in **total refunds of \$1,973,784**. During the same period in the previous fiscal year, we processed **1,562 claims** resulting in total refunds of **\$2,118,884**.

| DOLLAR AMOUNT REFUNDED               |                  |                  |                    |                 |                    |
|--------------------------------------|------------------|------------------|--------------------|-----------------|--------------------|
|                                      | Gas/Gasohol      | PRF              | Diesel             | Aircraft        | Total              |
| Agriculture Related                  | \$0              | \$0              | \$520,882          | \$0             | <b>\$520,882</b>   |
| Blending Error (contaminated fuel)   | 839              | 27               | 9,236              | 0               | <b>\$10,102</b>    |
| Qualifying Buses                     | 1,677            | 0                | 11,909             | 0               | <b>\$13,586</b>    |
| Equipment                            | 0                | 0                | 601,824            | 0               | <b>\$601,824</b>   |
| Exported Fuel                        | 7,232            | 138,587          | 11,282             | 0               | <b>\$157,101</b>   |
| Federal Government                   | 162,061          | 710              | 9,815              | 13,366          | <b>\$185,952</b>   |
| Government (nonhighway)              | 0                | 0                | 100,838            | 0               | <b>\$100,838</b>   |
| Used in Manufacturing                | 0                | 0                | 16,440             | 0               | <b>\$16,440</b>    |
| Motor Vehicle Fuels Used as Aviation | 283              | 0                | 0                  | 0               | <b>\$283</b>       |
| Native American                      | 95,775           | 0                | 1,091              | 0               | <b>\$96,866</b>    |
| Reefer                               | 0                | 0                | 251,475            | 0               | <b>\$251,475</b>   |
| Tax Paid in Error                    | 4,157            | 154              | 6,556              | 7,568           | <b>\$18,435</b>    |
| <b>Totals</b>                        | <b>\$272,024</b> | <b>\$139,478</b> | <b>\$1,541,348</b> | <b>\$20,934</b> | <b>\$1,973,784</b> |

### Audits

These tables summarize the audits completed in the last five years. During the 2002/2003 fiscal year, we conducted several audits which found that the taxpayers had significantly over reported their tax liabilities, resulting in credit assessments.

NOTE: These numbers do not include audits of the ethanol producer's credit program.

| TAX ASSESSED BY FISCAL YEAR |                  |                 |                  |                   |                   |
|-----------------------------|------------------|-----------------|------------------|-------------------|-------------------|
| Tax Program                 | 99/00            | 00/01           | 01/02            | 02/03             | 03/04             |
| Consumers Use               | \$22,271         | \$0             | (\$1,321)        | (\$26,804)        | <b>(\$24,844)</b> |
| Motor Vehicle Fuels         | 117,078          | 23,499          | 299,688          | 71,875            | <b>112,663</b>    |
| PRF                         | 18,426           | (38,408)        | 74,509           | (55,104)          | <b>130,032</b>    |
| Aircraft Fuels              | 357              | 180             | (314)            | 147               | <b>(293)</b>      |
| Compressed Fuels            | 1,854            | 26,893          | 761              | 2,499             | <b>30,686</b>     |
| Gas Tax Credit              | (8,636)          | (650)           | 46,098           | 3,193             | <b>6,694</b>      |
| Diesel Fuel                 | 67,230           | 7,161           | 148,413          | (28,418)          | <b>61,198</b>     |
| <b>Totals</b>               | <b>\$218,580</b> | <b>\$18,675</b> | <b>\$567,834</b> | <b>(\$32,612)</b> | <b>\$316,136</b>  |

| NUMBER OF AUDITS BY TAX PROGRAM BY FISCAL YEAR |            |            |            |            |            |
|--|------------|------------|------------|------------|------------|
| Tax Program                                    | 99/00      | 00/01      | 01/02      | 02/03      | 03/04      |
| Consumers Use                                  | 1          | 0          | 4          | 16         | <b>12</b>  |
| Liquid Fuel Carriers                           | 3          | 3          | 5          | 3          | <b>10</b>  |
| Motor Vehicle Fuels                            | 46         | 45         | 54         | 48         | <b>43</b>  |
| PRF  | 31         | 25         | 28         | 26         | <b>36</b>  |
| Aircraft Fuels                                 | 9          | 4          | 7          | 6          | <b>6</b>   |
| Compressed Fuels                               | 16         | 22         | 22         | 17         | <b>21</b>  |
| Terminals                                      | 3          | 0          | 0          | 0          | <b>5</b>   |
| Gas Tax Credit                                 | 8          | 4          | 6          | 6          | <b>5</b>   |
| Retailers                                      | 8          | 7          | 3          | 10         | <b>19</b>  |
| Sp Fuels/Diesel                                | 51         | 50         | 64         | 54         | <b>53</b>  |
| <b>Totals</b>                                  | <b>176</b> | <b>160</b> | <b>193</b> | <b>186</b> | <b>210</b> |

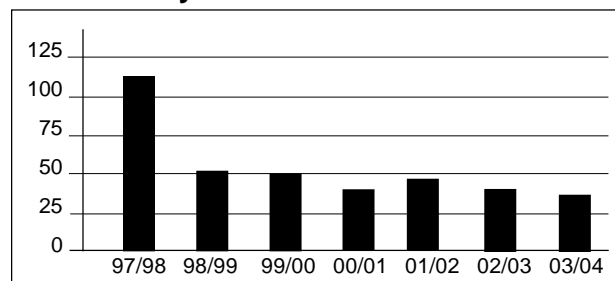
## PROGRESS REPORT (CONT.)

### Dyed Fuel Assessments

This graph reflects the number of dyed fuel assessments issued each fiscal year. **During fiscal year 2003/2004, the total number of inspections was 7,198 resulting in 42 assessments.**

The amount of the penalty assessed by the State of Nebraska ranges from \$250 to \$2,500, depending upon the number of violations incurred over a five-year period. Each violation is also subject to an additional \$1,000 penalty that can be issued by the Federal Internal Revenue Service.

Dyed Fuel Assessment



### Ethanol Production Credit

The Nebraska Ethanol Production Credit claims establish the amount of the production credit earned by the ethanol producers and assigned by them to the various Nebraska motor vehicle fuels tax licensees.

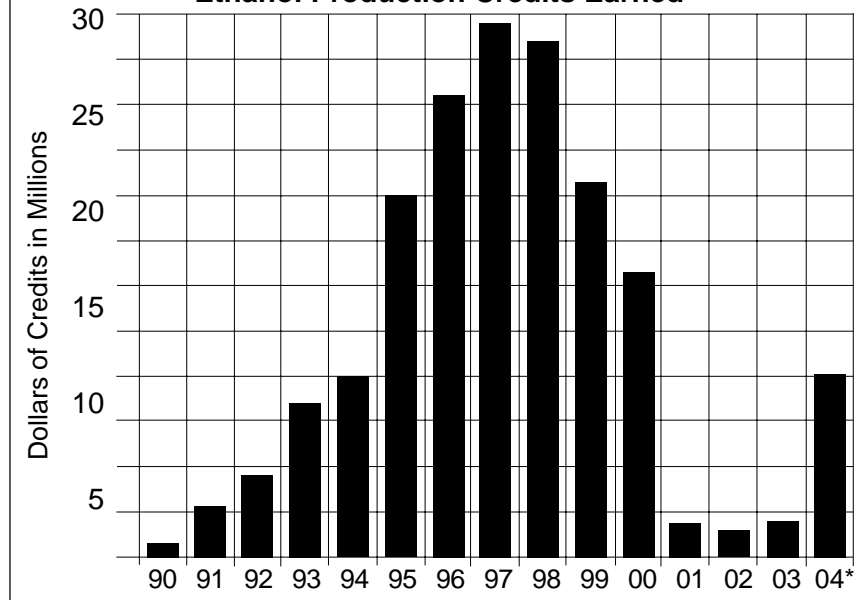
There are currently 17 ethanol plants in various stages of production in the state. Through December 31, 2000, ethanol producers could qualify to receive a 20-cent per gallon credit on a maximum of 25 million gallons of ethanol produced in Nebraska each year. Certain plants were also eligible for a 7.5-cent per gallon credit for production occurring from June 2000 through December 2003.

During the 2001 legislative session, the passage of LB 536 created an 18-cent per gallon credit, which is available from January 2002 through June 2012. Eleven plants have met the qualification

requirements for this program which allows credit on a maximum of 15,625,000 gallons of production each year for up to eight years. As shown on the graph, the credits have grown from just over \$1,000,000 in 1990 to a peak of just under \$30,000,000 in 1997, and then declined as some

ethanol plants reached the end of their eligibility under the 20-cent program. However, as new plants have started producing and earning credits under LB 536, the total credit earned is once again increasing.

Ethanol Production Credits Earned



\*including January through August 2004 only

## PROGRESS REPORT (CONT.)

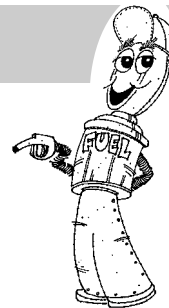
### Annual Stats

This table shows the gallons and dollars reported on taxpayer returns. It does not reflect refunds, audits, etc.

| Year | GASOLINE & GASOHOL |             | DIESEL      |            |
|------|--------------------|-------------|-------------|------------|
|      | Gallons            | Tax         | Gallons     | Tax        |
| 1993 | 780,044,137        | 180,456,542 | 218,053,008 | 51,580,674 |
| 1994 | 756,064,292        | 178,484,240 | 228,490,205 | 55,638,287 |
| 1995 | 825,530,818        | 195,946,147 | 248,461,579 | 59,863,691 |
| 1996 | 823,709,762        | 205,852,173 | 257,268,846 | 65,652,081 |
| 1997 | 836,837,567        | 202,761,093 | 288,032,081 | 71,182,594 |
| 1998 | 855,601,075        | 196,488,973 | 316,847,281 | 74,253,585 |
| 1999 | 868,961,738        | 198,821,480 | 342,368,345 | 79,935,573 |
| 2000 | 870,394,963        | 202,342,801 | 343,393,346 | 81,673,891 |
| 2001 | 869,851,617        | 203,695,765 | 351,660,872 | 84,745,317 |
| 2002 | 889,407,852        | 210,140,411 | 357,685,138 | 87,110,418 |
| 2003 | 876,512,720        | 209,786,979 | 349,894,720 | 85,469,249 |

## MOTOR FUELS TAX

The Nebraska motor fuels tax for **July 1, 2004** through **December 31, 2004** is **24.8 cents** per gallon.



### FOR MOTOR FUELS TAXPAYER ASSISTANCE

Call your account representative or toll free **1-800-554-FUEL (1-800-554-3835)**.

Lincoln residents call **471-5730**.

For **\*TT (Text Telephone)**, dial **1-800-382-9309**.



**\*Telecommunication Device for the Deaf (TDD)** is designated by the use of **"TT,"** which is consistent with the Americans with Disabilities Act.

### OR CONTACT:

Motor Fuels Division  
301 Centennial Mall South  
P.O. Box 98904  
Lincoln, NE 68509-8904

[www.revenue.state.ne.us/fuels](http://www.revenue.state.ne.us/fuels)

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Mary Jane Egr  
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